him. Execution was issued on the judgment by the defendant and the plaintiff now sues for damages resulting from the sale of property which he claims was exempt from execution under § 3628, Colo. Rev. Stat. 1908. *Held,* two judges dissenting, that the statute referred to has no application to an execution to satisfy a judgment for costs in criminal cases. *Enderman* v. *Alexander* (Colo. 1920) 187 Pac. 729.

In dealing with exemption statutes in respect to costs and fines in criminal actions, two questions arise. First, is the language of the statute broad enough to include exemption from such claims? The instant case was disposed of immediately by answering this question in the negative, the court reasoning that § 3628 of the Rev. Stat. 1908 covering exemptions, being a part of the Civil Code, had no application in a criminal case. In support of this contention, the court argued that § 2012, which provides that any person imprisoned for failure to pay fines or costs should be released if he "hath no estate whatever wherewith to pay such fine or costs", clearly indicates the legislative intent not to allow the privilege of exemption in such cases. But *cf. Betterton* v. *O'Dwyer* (1907) 124 Mo. App. 306, 101 S. W. 628. Where the statute exempts property from execution on judgments on debts contracted, there are holdings that fines and costs are included, *Edwards* v. *Thayer* (1916) 122 Ark. 579, 184 S. W. 64; *Loomis* v. *Gerson* (1871) 62 Ill. 11, and also holdings to the contrary. *Jones* v. *Tarleton* (Ala. 1917) 75 So. 643; *Whiteacre* v. *Rector* (Va. 1878) 29 Gratt. 714. The individual statutes must be examined for distinctions. Had the court been able to answer the first question in the affirmative, a second would have presented itself, *viz:* if the state is the plaintiff and is not specifically included in the statute, may the defendant claim exemptions? Here again the authority is divided. In line with the policy of liberal construction of the exemption statutes in favor of the debtor, the purpose of the statutes being the protection of the debtor and his family, it has been urged that protection is needed as well against the state as against any other creditor. *Commonwealth* v. *Cassady* (1914) 159 Ky. 776, 169 S. W. 497; *Maloney* v. *Newton* (1882) 85 Ind. 565; *State* v. *Williford* (1880) 36 Ark. 155. The contrary view is based on the contention that public policy demands that the administration of public justice be unhampered by exemptions in the application of one of its most potent means of punishing crime. See *Whiteacre* v. *Rector, supra.* The former view would seem to have the weight of authority.

LIBEL AND SLANDER—PRIVILEGED COMMUNICATION—INFORMATION OF CRIME.—The defendant wrote a note to the plaintiff's employer, accusing the plaintiff of embezzlement. The charge was unfounded. In an action for libel, *held,* the communication was qualifiedly privileged. *Doyle* v. *Clauss* (App. Div. 2nd. Dept. 1920) 180 N. Y. Supp. 671.

A communication, accusing the plaintiff of a crime, is privileged if made in good faith to an officer of the law. *Beshiers* v. *Allen* (Okla. 1915) 148 Pac. 141; but see *Hancock* v. *Blackwell* (1897) 139 Mo. 440, 452, 41 S. W. 205. And what little authority there is holds in accord with the instant case that such a communication is privileged if made to the party most interested. *Noonan* v. *Orton* (1873) 32 Wis. 106; *Stuart* v. *Bell* [1891] 2 Q. B. 341. The basis of this privilege is public or social duty. See *Shinglemeyer* v. *Wright* (1900) 124 Mich. 230, 239, 82 N. W. 887. In the leading case of *Byam* v. *Collins* (1888) 111 N. Y. 143, 19 N. E. 75, the court decided that the defendant was not under a social duty to communicate defamatory matter about the plaintiff to a close friend engaged to be married to the latter, even though

her intentions were the best in the world. This decision was brought to the attention of the court in the instant case, and was distinguished on the ground that crime is of public concern while the private affairs of an individual are not. While this is a possible distinction, society would seem to be just as interested in the prevention of an unfortunate marriage as in the prevention of a crime. The former impairs the efficiency of at least two members of society, frequently leads to divorce, which involves needless litigation, and is conducive to crime itself. It is interesting to note that the English cases are in accord with the instant case, *Stuart* v. *Bell, supra,* but seem to be out of harmony with *Byam* v. *Collins. Cf. Coxhead* v. *Richards* (1846) 2 C. B. 569; *Davies* v. *Snead* (1870) L. R. 5 Q. B. 608.

MARRIAGE—ANNULMENT—FRAUD.—Plaintiff consented to enter a civil marriage ceremony on the defendant's promise subsequently to have a religious ceremony performed. The defendant at the time did not intend to carry out his promise and after the civil marriage refused to perform. The defendant did not cohabit with nor support the plaintiff. In a suit to annul the marriage, *held* for the plaintiff. *Rubinson* v. *Rubinson* (N. Y. 1920) 110 Misc. 114, 181 N. Y. Supp. 28.

A marriage is voidable in New York because of fraud and may be annulled except in case of voluntary cohabitation after full knowledge thereof. Dom. Rel. Law, Laws of 1909 c. 19, § 7 (4); Code Civ. Proc. § 1750. Most courts agree that a material misrepresentation of fact, which induces a marriage, is sufficient to constitute fraud. See *Johnson* v. *Johnson* (1912) 176 Ala. 449, 58 So. 418. But they have generally held that only such misrepresentations are material as go to the competency of the parties to contract and to fulfill the obligations of the contract. See *Lyon* v. *Lyon* (1907) 230 Ill. 366, 82 N. E. 850; but *cf. Browning* v. *Browning* (1913) 89 Kan. 98, 130 Pac. 852. The New York courts however hold that "fraud" includes all such misrepresentations as would have caused the consent of the defrauded party to have been withheld, if known. See *Domschke* v. *Domschke* (1910) 138 App. Div. 454, 122 N. Y. Supp. 892. This practically places marriage contracts on the same basis as ordinary contracts. See *Kujek* v. *Goldman* (1896) 150 N. Y. 182, 44 N. E. 773. But it has been suggested, and it would seem with good reason, that not all facts should be of sufficient weight to secure annulment, simply because made material by the parties. See *Sobol* v. *Sobol* (1914) 88 Misc. 277, 150 N. Y. Supp. 248. The ultimate judge of materiality should be the court with an eye to sound public policy and the peculiar nature of the contract. Further, the tendency of courts to extend more aid to a defrauded party before the marriage status has been definitely assumed would also seem to be reasonable, since until cohabitation commences the relation is little more than a contract. See *Williams* v. *Williams* (1911) 71 Misc. 590, 130 N. Y. Supp. 875; *Svenson* v. *Svenson* (1904) 178 N. Y. 54, 57, 70 N. E. 120. Perhaps the reason the New York courts have extended the scope of "fraud" so liberally is that it is so difficult in that state to avoid the marriage status once it has been assumed.

MASTER AND SERVANT—CHARITABLE CORPORATIONS—TORT LIABILITY.—The plaintiff's intestate suffered injuries through the negligence of medical attendants while a patient in the defendant hospital, a charitable corporation. The attendants had not been selected with due care. In a tort action, *held,* the defendant was not liable. *Roosen* v. *Peter Bent Brigham Hospital* (Mass. 1920) 126 N. E. 392.